

City of Weslaco, Texas 2011 Redistricting

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What is Redistricting?

One Person - One Vote

- The U.S. Constitution requires that election districts for governmental officials who act in a representative capacity (e.g., legislators, city council members, county commissioners, and school trustees) have approximately equal populations.
- If new federal census indicates population changes, governmental entities – states and local governments – must determine whether existing districts still satisfy this requirement.
- If not, they must rebalance the population by re-drawing district boundaries.

Deviation

For a legislative plan

(i.e., drawn by the governmental entity)

- Deviation of less than 10% is de minimus and fails to make out a prima facie claim of unconstitutionality
- Deviation exceeding 10% is prima facie invalid and must be justified
- Deviation is measured between the single member district with the greatest population and the district with the least population.
- Congressional districts face a much more exacting standard



What Population Do You Use?

- Total Population

- To determine one person - one vote

- VAP (Voting Age Population)

- To measure voting rights issues

Main Issues

- DOJ's Role in Preclearance
- Legal Standards for Liability

Section 5 of the Voting Rights Act

- Redistricting plans must be precleared by the Department of Justice or a three-judge district court in the District of Columbia.
- The standard is retrogression
 - Are minorities worse off under the new system?

What is the Benchmark?

- The benchmark is used as the standard against which retrogression is measured.
- The benchmark is 2010 Census data superimposed on the last legally enforceable plan in force or effect (typically, the 2001 lines).

2011 DOJ Analysis of Plans

- No discriminatory purpose – DOJ will examine the circumstances surrounding the adoption of a plan to determine whether evidence exists of any discriminatory purpose of denying or abridging the right to vote.
- No retrogressive effect – DOJ will compare the benchmark plan with any proposed plans at issue, using updated (2010) census data in each and will determine whether a proposed plan reduces minority voter's ability to elect a candidate of their choice.

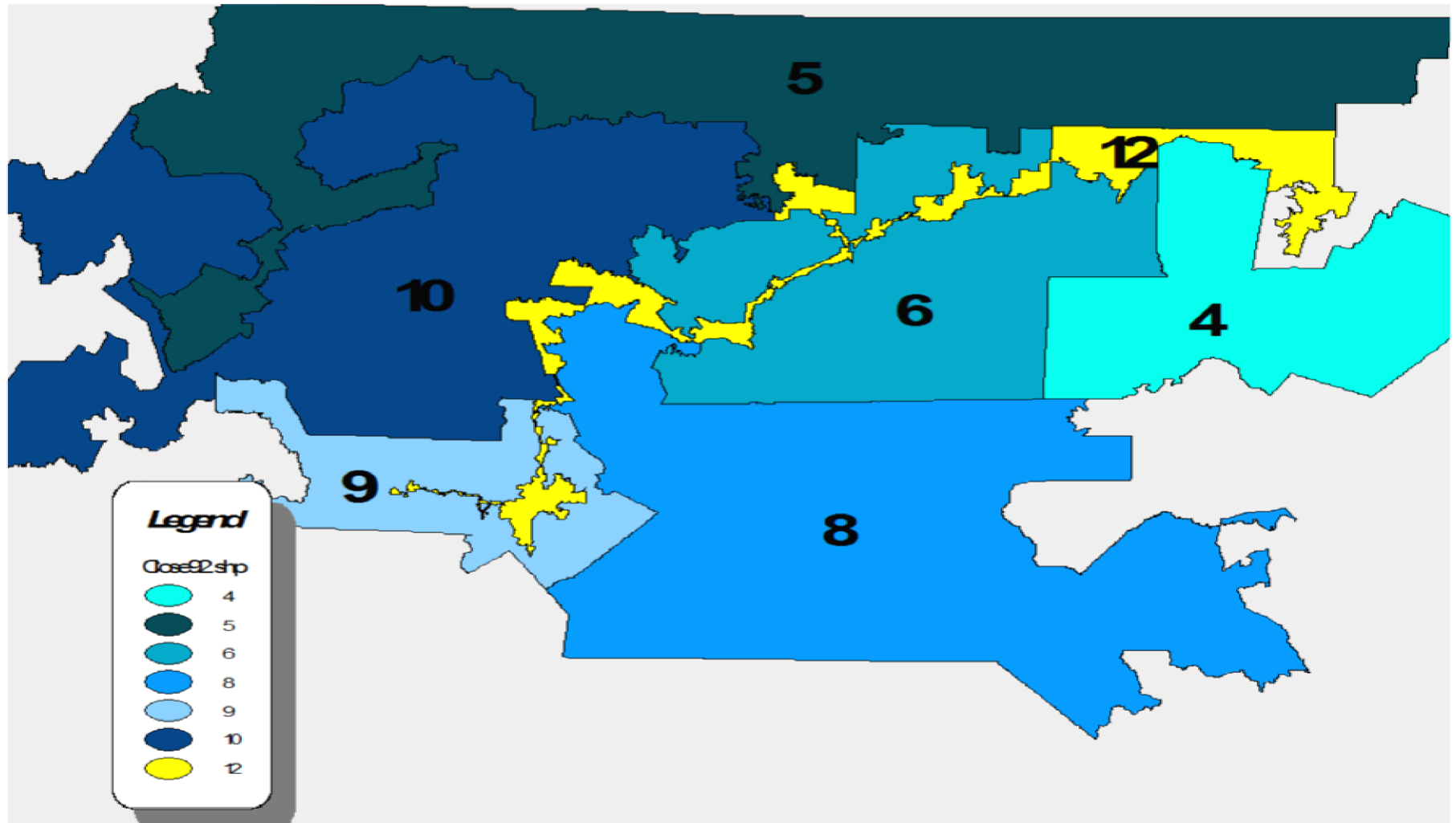
- **Section 5 - Does the plan have a retrogressive purpose or effect?**
- **Section 2 - Does the plan discriminate against groups protected by the Voting Rights Act?**

Section 2 of the Voting Rights Act

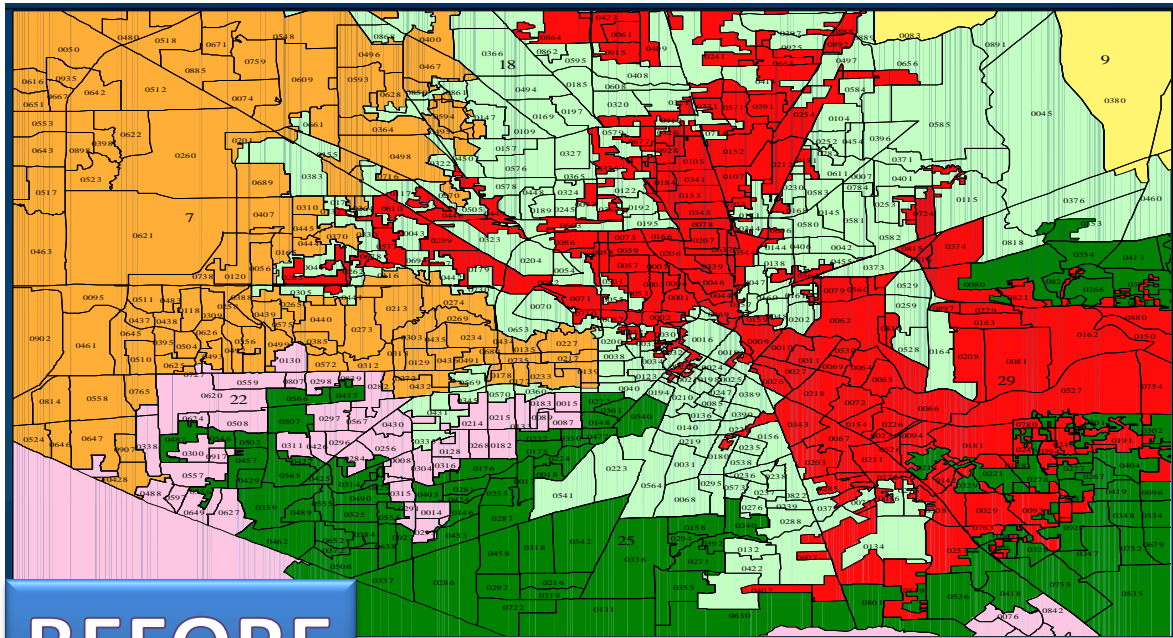
- Section 2 prohibits election practices that discriminate on the basis of race or language minority status.
- Generally you need to avoid cracking or packing.
- Cracking or fracturing is dividing a geographically compact group of minority voters to fragment their voting power.
- Packing is concentrating minority voters in a single district when dividing them would permit the group to elect their candidates of choice in more than one district

- **14th Amendment (*Shaw v. Reno*):**
 - **Was race the predominant consideration in drawing the plan?**
 - **If so, is the plan a narrowly tailored means of addressing a compelling governmental interest?**

CLOSE UP OF NORTH CAROLINA 1992 PLAN A

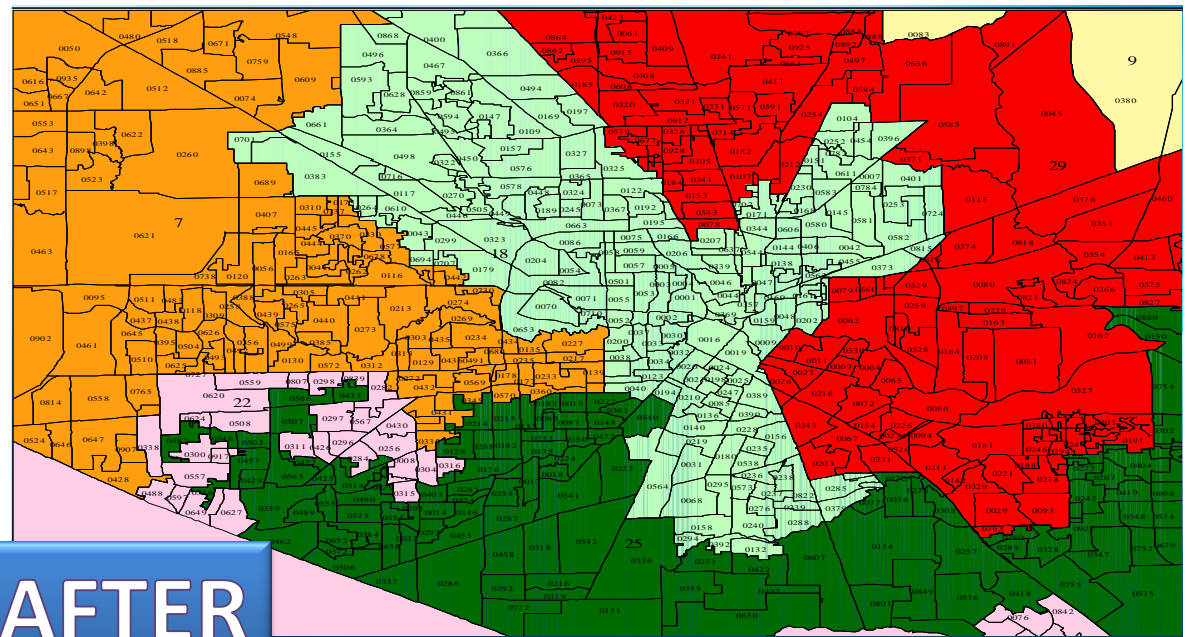


Bush v. Vera



BEFORE

Central Harris County
PLANC657



AFTER

Central Harris County
PLANC746

Redistricting Standards under Shaw-Reno Line of Cases

- It is OK to be aware of race and to consider race.
- But race may not be the predominant factor in the redistricting process to the subordination of traditional districting principles.
- Bizarrely shaped districts are not unconstitutional per se but the bizarre shape may be evidence that race was a predominant consideration in the districting process.

Redistricting Standards under Shaw-Reno Line of Cases

- If race is the predominant consideration, the plan may still be permissible if the plan is narrowly tailored to address a compelling governmental interest such as compliance with the Voting Rights Act.
- If a plan is narrowly tailored, it will use race no more than is necessary.

Adopt Redistricting Criteria

- Adopting districts of relatively equal size
- Identifiable boundaries
- Maintaining communities of interest and neighborhoods
- Using whole voting precincts
- Basing plan on existing districts
- Drawing districts that are compact and contiguous
- Keeping incumbents in their districts
- Narrowly tailoring plan to comply with the Voting Rights Act

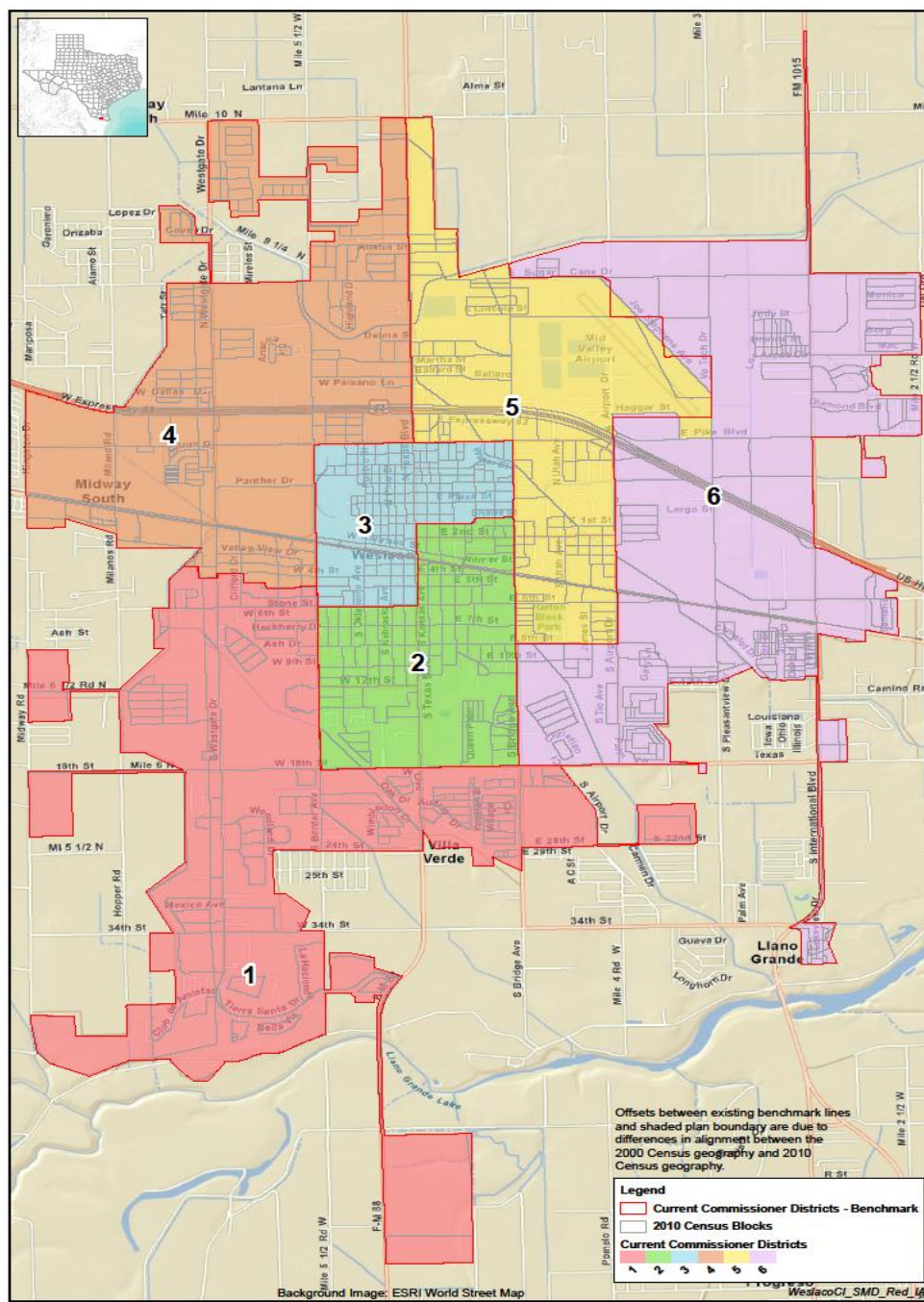
STEPS TO BALANCING CONFLICTING LEGAL OBLIGATIONS IN REDISTRICTING

- Plan ahead -- Build a record.
- Be aware of legal obligations and responsibilities.
- Adopt criteria that reflect traditional redistricting principles, including consideration of race to the extent required to meet obligations under the Voting Rights Act.
- Pay attention to the criteria when drawing the plan. Consider and evaluate each plan presented (whether by district's hired consultant or by general public) in light of the adopted criteria.

STEPS TO BALANCING CONFLICTING LEGAL OBLIGATIONS IN REDISTRICTING

- Analyze the final plan in terms of how well it conforms to the criteria.
- Make sure the analysis is furnished to the governmental body before it votes on the plan.
- Avoid truly bizarre districts.

**City of Weslaco
2001 Benchmark
with 2010 Census Data**



City of Weslaco
Overall Deviation For the Benchmark Plan
Using 2010 Census Data
Total Population

District	Persons	Deviation	Hispanic % of Total Population	Non-Hispanic Anglo % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	7,546	26.74%	72.55%	25.38%	0.16%	1.35%	0.54%
2	4,928	-17.23%	79.73%	17.86%	0.22%	1.93%	0.26%
3	4,327	-27.33%	94.62%	4.53%	0.23%	0.23%	0.39%
4	6,703	12.58%	91.06%	7.25%	0.24%	1.21%	0.24%
5	4,686	-21.30%	95.97%	3.12%	0.17%	0.58%	0.19%
6	7,534	26.54%	83.55%	14.65%	0.35%	1.09%	0.35%
Totals	35,724		85.08%	13.23%	0.23%	1.11%	0.34%

Ideal Size = 35,724 / 6 = 5,954 per district.
Total Maximum Deviation = 26.74% - (-27.33%) = 54.06%
 Some percentages may be subject to rounding error.

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	5,521		65.95%	32.11%	0.18%	1.36%	0.43%
2	3,673		76.07%	21.73%	0.25%	1.72%	0.25%
3	3,069		94.27%	4.95%	0.23%	0.26%	0.29%
4	4,382		88.68%	9.40%	0.32%	1.32%	0.27%
5	3,066		96.44%	2.58%	0.23%	0.55%	0.20%
6	4,806		76.05%	21.87%	0.40%	1.27%	0.37%
Totals	24,517		80.87%	17.40%	0.27%	1.15%	0.32%

*Voting Age Population

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Questions

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